

REMARKS

In the Office Action mailed November 16, 2005, Claims 1, and 3-15 were pending in the present application. Each of these claims was rejected under 35 U.S.C. 112, first paragraph, as allegedly failing to comply with the written description requirement. Further, Claims 1, 3-7, and 10-15 were rejected under 35 U.S.C. 102(b) as allegedly anticipated by U.S. Pat. No. 5,342,631 (hereinafter "U.S. '631"). Finally, each of the Claims 1, and 3-15 was rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over U.S. '631 in view of Pat. No. 4,824,681 (hereinafter "U.S. '681").

By the present amendment, Claim 1 has been amended to include the element that the sugar-free soft-chewable composition is reheatable, or more particularly, that the sugar-free soft chew composition includes a reheatable composition. In addition, the claim has been amended such that the active ingredient can be added when the sugar-free chew composition is either initially cooled, or reheated and then subsequently cooled. Applicants submit that support for such element may be found in paragraph [0103] of the published application. Accordingly no new matter is added by the present amendment. Additionally, it is to be noted that the present amendment is made without conceding the correctness of the current rejection, but solely for the purposes of expediting prosecution in the present case. Applicant expressly reserves the right to pursue any relinquished or canceled subject matter in a future patent application.

Each of the above-recited rejections will be addressed in turn below. It is respectfully requested that the Examiner further consider the application in view of these remarks.

The Present Invention

Before discussing each of the rejections a brief summary of the present invention is made. The present invention is drawn to a sugar-free soft-chew tablet composition comprising a reheatable composition that include at least two polyols in an amount from 15 to 80% by weight and being selected from the group consisting of hydrogenated starch hydrolysate, maltitol, lactitol, and mixtures thereof, an emulsifier system present in an amount from about 1.0 to 30% by weight, water in an amount of 0 to 15% by weight, and optionally components such as colors, flavors, and binders. An active agent can be included in an amount from about 0.1 to 70% by weight. The active agent can be added to the reheatable composition either upon cooling or after the composition has been cooled and later reheated to form the soft chew tablet.

Rejections under 35 U.S.C. § 112, first paragraph

The Examiner has rejected claims 1, and 3-15 under 35 U.S.C § 112, first paragraph, as failing to comply with the written description requirement. In particular the Examiner cited the limitations of the composition being non-aerated and not coated as being allegedly unsupported in the specification. The allegedly unsupported language has been deleted from the claims and Applicant respectfully requests that this rejection be withdrawn.

Rejections under 35 U.S.C. 102(b)

The Examiner has rejected claims 1, 3-7, and 10-15 under 35 U.S.C. 102(b) as allegedly being anticipated by U.S. '631. U.S. '631 teaches a petroleum wax-free chewing gum containing special nancoriogenic oligosaccharaides. Nothing in the '631 reference discloses a composition that is reheatable as recited by the presently

amended claims. Neither could such a characteristic be inherently disclosed by the '631 reference as gums are generally known as losing their consistency and quality when reheated and cooled. A declaration under 37 C.F.R. § 1.132 in support of this position. As the cited reference does not teach a reheatable sugar-free chew composition it fails to teach each and every element of the pending claims. Therefore, it is respectfully requested that the rejection of independent Claim 1 and its related dependent claims be withdrawn and the claims be allowed.

Rejections Under 35 U.S.C. § 103

The Examiner has rejected claims 1, under 35 U.S.C. 103(a) as allegedly being unpatentable over U.S. '631 in view of U.S. '681. The Applicant respectfully submits that these claims are patentable over the cited reference for the reasons set forth below, and that the rejection should be withdrawn.

The inventive focus of U.S. '681 is an extended release sweetener composition comprising solid particles of a sweetening agent coated with a coating material. The coating material can include a hydrophobic polymer and a hydrophobic plasticizer. The reference further teaches that the sweetening agent can be used in compositions that are held in the mouth, such as gum, for a long time in order to utilize the full benefit of the lengthened sweetening effect provided by the sweetening agent. However, nothing in the '681 reference teaches or suggests a reheatable composition of any kind as required by the claims of the present invention. As discussed above, U.S. '631 also fails to teach the required reheatable composition. Furthermore, neither does the combination of such references teach or suggest the reheatable aspect. Therefore, individually and collectively the two cited references fail to teach each and every element of the presently pending claims. In view of the provided

declaration under 37 C.F.R. § 1.132, Applicant further contends that the presently amended claims are patentable over gums generally. As such, it is respectfully requested that this rejection be withdrawn and the pending claims be allowed.

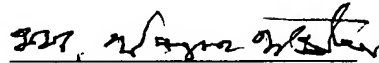
CONCLUSION

In view of the foregoing, Applicant believes that pending claims 1 and 3-15 present allowable subject matter and allowance thereof is respectfully requested. If any impediment to the allowance of these claims remains after consideration of the above remarks, and such impediment could be removed during a telephone interview, the Examiner is invited to telephone Mr. David Osborne, or in his absence, the undersigned attorney at (801) 566-6633 so that such issues may be resolved as expeditiously as possible.

Please charge any additional fees except for Issue Fee or credit any overpayment to Deposit Account No. 20-0100.

Dated this the 17th day of April, 2006.

Respectfully submitted,



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